

AMENDED IN SENATE APRIL 26, 2007

AMENDED IN SENATE MARCH 29, 2007

SENATE BILL

No. 533

Introduced by Senator Yee
(Coauthor: Senator Ridley-Thomas)
(Coauthor: Assembly Member Dymally)

February 22, 2007

An act to amend Sections 120325, 120330, and ~~120335~~ 120365 of, and to amend, repeal, and add Section 120335 of, of the Health and Safety Code, relating to vaccinations.

LEGISLATIVE COUNSEL'S DIGEST

SB 533, as amended, Yee. Health: immunizations: pneumococcus.

Existing law requires county health officers to organize and maintain a program to make immunizations available to certain persons. Existing law states the intent of the Legislature to provide a means for the eventual achievement of immunization against certain childhood diseases. Under existing law, persons exposed to those childhood diseases may be temporarily excluded from school until a determination is made by the local health officer that the person is no longer at risk of developing the disease.

This bill would add pneumococcus to the list of childhood diseases for which the Legislature intends the eventual achievement of immunization.

Existing law prohibits the governing authority of a school or other institution from unconditionally admitting any person as a pupil of any private or public elementary or secondary school, child care center, day nursery, nursery school, family day care home, or development center,

unless prior to his or her first admission to that institution he or she has been fully immunized against various diseases.

This bill would, *on and after July 1, 2008, and until July 1, 2009*, add pneumococcus to the list of diseases, except for children who are ~~4 years and 11~~ 24 months of age and older. Because the bill would add to the duties of certain local agencies it would impose a state-mandated local program.

The bill would, on and after July 1, 2009, require the State Public Health Officer to create a list of diseases for which immunization shall be required prior to entry into the above-described institutions.

The bill would also require the State Department of Public Health to adopt regulations necessary to administer the immunization requirements ~~within a specified time period by July 1, 2010.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Due to the positive impact of immunization on
2 both children in child care and senior citizens and the need to
3 eliminate cultural and racial disparities in immunization rates, it
4 is the intent of the Legislature in enacting this act to promote
5 immunization for all California children and support state
6 immunization requirements that conform to the recommendations
7 and timelines of the United States Public Health Services' Centers
8 for Disease Control Immunization Practices Advisory Committee
9 and the American Academy of Pediatrics Committee of Infectious
10 Diseases.

11 SEC. 2. Section 120325 of the Health and Safety Code is
12 amended to read:

13 120325. In enacting this chapter, but excluding Section 120380,
14 and in enacting Sections 120400, 120405, 120410, and 120415, it
15 is the intent of the Legislature to provide:

1 (a) A means for the eventual achievement of total immunization
2 of appropriate age groups against the following childhood diseases:

3 (1) Diphtheria.

4 (2) Hepatitis B.

5 (3) Haemophilus influenzae type b.

6 (4) Measles.

7 (5) Mumps.

8 (6) Pertussis (whooping cough).

9 (7) Pneumococcus.

10 (8) Poliomyelitis.

11 (9) Rubella.

12 (10) Tetanus.

13 (11) Varicella (chickenpox). This paragraph shall be operative
14 only to the extent that funds for this purpose are appropriated in
15 the annual Budget Act.

16 (12) Any other disease that is consistent with the most current
17 recommendations of the United States Public Health Services'
18 Centers for Disease Control Immunization Practices Advisory
19 Committee and the American Academy of Pediatrics Committee
20 of Infectious Diseases, and deemed appropriate by the department.

21 (b) That the persons required to be immunized be allowed to
22 obtain immunizations from whatever medical source they so desire,
23 subject only to the condition that the immunization be performed
24 in accordance with the regulations of the department and that a
25 record of the immunization is made in accordance with the
26 regulations.

27 (c) Exemptions from immunization for medical reasons or
28 because of personal beliefs.

29 (d) For the keeping of adequate records of immunization so that
30 health departments, schools, and other institutions, parents or
31 guardians, and the persons immunized will be able to ascertain
32 that a child is fully or only partially immunized, and so that
33 appropriate public agencies will be able to ascertain the
34 immunization needs of groups of children in schools or other
35 institutions.

36 (e) Incentives to public health authorities to design innovative
37 and creative programs that will promote and achieve full and timely
38 immunization of children.

39 SEC. 3. Section 120330 of the Health and Safety Code is
40 amended to read:

1 120330. (a) The department, in consultation with the State
2 Department of Education, shall adopt and enforce all regulations
3 necessary to carry out this chapter, but excluding Section 120380,
4 and to carry out Sections 120400, 120405, 120410, and 120415.

5 ~~(b) The department shall adopt regulations necessary to~~
6 ~~administer Section 120335 within 12 months of the effective date~~
7 ~~of the addition to that section of any disease for which an~~
8 ~~immunization requires documentation.~~

9 SEC. 4. Section 120335 of the Health and Safety Code is
10 amended to read:

11 120335. (a) As used in this chapter, but excluding Section
12 120380, and as used in Sections 120400, 120405, 120410, and
13 120415, the term “governing authority” means the governing board
14 of each school district or the authority of each other private or
15 public institution responsible for the operation and control of the
16 institution or the principal or administrator of each school or
17 institution.

18 (b) The governing authority shall not unconditionally admit any
19 person as a pupil of any private or public elementary or secondary
20 school, child care center, day nursery, nursery school, family day
21 care home, or development center, unless prior to his or her first
22 admission to that institution he or she has been fully immunized.
23 The following are the diseases for which immunizations shall be
24 documented:

25 (1) Diphtheria.

26 (2) Haemophilus influenzae type b, except for children who
27 have reached the age of four years and six months.

28 (3) Measles.

29 (4) Mumps, except for children who have reached the age of
30 seven years.

31 (5) Pertussis (whooping cough), except for children who have
32 reached the age of seven years.

33 ~~(6) Pneumococcus, except for children who are four years and~~
34 ~~11 months of age and older.~~

35 (6) *On and after July 1, 2008, pneumococcus, except for children*
36 *who are 24 months of age and older.*

37 (7) Poliomyelitis.

38 (8) Rubella.

39 (9) Tetanus.

1 (10) Hepatitis B for all children entering the institutions listed
2 in this subdivision at the kindergarten level or below on or after
3 August 1, 1997.

4 (11) Varicella (chickenpox), effective July 1, 2001. Persons
5 already admitted into California public or private schools at the
6 kindergarten level or above before July 1, 2001, shall be exempt
7 from the varicella immunization requirement for school entry. This
8 paragraph shall be operative only to the extent that funds for this
9 purpose are appropriated in the annual Budget Act.

10 The department may adopt emergency regulations to implement
11 this paragraph including, but not limited to, requirements for
12 documentation and immunization status reports, in accordance
13 with the rulemaking provisions of the Administrative Procedure
14 Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of
15 Division 3 of Title 2 of the Government Code). The initial adoption
16 of emergency regulations shall be deemed to be an emergency and
17 considered by the Office of Administrative Law as necessary for
18 the immediate preservation of the public peace, health and safety,
19 or general welfare. Emergency regulations adopted pursuant to
20 this paragraph shall remain in effect for no more than 180 days.

21 (12) Any other disease deemed appropriate by the department,
22 taking into consideration the recommendations of the United States
23 Public Health Services' Centers for Disease Control Immunization
24 Practices Advisory Committee and the American Academy of
25 Pediatrics Committee of Infectious Diseases.

26 (c) On and after July 1, 1999, the governing authority shall not
27 unconditionally admit any pupil to the 7th grade level, nor
28 unconditionally advance any pupil to the 7th grade level, of any
29 of the institutions listed in subdivision (b) unless the pupil has
30 been fully immunized against hepatitis B.

31 (d) The department may specify the immunizing agents which
32 may be utilized and the manner in which immunizations are
33 administered.

34 (e) *This section shall become inoperative on July 1, 2009, and*
35 *as of January 1, 2010, is repealed, unless a later enacted statute*
36 *that is enacted before January 1, 2010, deletes or extends the dates*
37 *on which it becomes inoperative and is repealed.*

38 SEC. 5. Section 120335 is added to the Health and Safety Code,
39 to read:

1 120335. (a) *The governing authority of a private or public*
2 *elementary or secondary school, child day care center, as defined*
3 *in Section 1596.750, day care center, as defined in Section 1596.76,*
4 *or child care and development center, as defined in Section 8208*
5 *of the Education Code, shall not unconditionally admit a pupil*
6 *unless, prior to his or her first admission to that institution, he or*
7 *she has been fully immunized against the diseases identified on*
8 *the list developed pursuant to subdivision (b).*

9 (b) *The State Public Health Officer, in consultation with the*
10 *California Conference of Local Health Officers, shall create a list*
11 *of diseases for which immunization shall be required prior to entry*
12 *into the institutions identified in subdivision (a). In creating the*
13 *list of required immunizations, the State Public Health Officer*
14 *shall consider both of the following:*

15 (1) *Vaccines recommended by the Advisory Committee on*
16 *Immunization Practices of the United States Department of Health*
17 *and Human Services, the American Academy of Pediatrics, and*
18 *the American Academy of Family Practice.*

19 (2) *Criteria necessary for implementation of immunization*
20 *requirements, including the cost and supply of the vaccine.*

21 (c) *The department shall publish and post on the department's*
22 *Web site by July 1 of every year a list of the immunizations that*
23 *are required under this section, and shall include links to other*
24 *Web sites that provide information about the required vaccines,*
25 *including, but not limited to, the Advisory Committee on*
26 *Immunization Practices' recommended childhood and adolescent*
27 *immunization schedule.*

28 (d) *The State Public Health Officer may waive the prohibition*
29 *in subdivision (a) for a specific immunization if the State Public*
30 *Health Officer, after consulting with the American Academy of*
31 *Pediatrics, the American Academy of Family Physicians, the*
32 *American College of Obstetricians and Gynecologists, and the*
33 *California Conference of Local Health Officers, finds any of the*
34 *following:*

35 (1) *There is a shortage of the recommended vaccine.*

36 (2) *Public or private funding or insurance coverage for the*
37 *vaccine is not sufficient.*

38 (3) *A waiver is necessary to protect the public health.*

39 (e) *If the State Public Health Officer waives an immunization*
40 *requirement for a vaccine on the list established pursuant to*

subdivision (b), he or she shall publish a public statement that shall be posted on the department's Web site and sent to the Governor, the Senate Committee on Health, and the Assembly Committee on Health stating why he or she chose to waive the requirement.

(f) (1) The department shall adopt regulations necessary to administer this section by July 1, 2010. Until the adoption of there regulations, the list of diseases for which immunization shall be required prior to entry described in subdivision (b) shall consist of the list of diseases described in subdivision (a) of Section 120325.

(2) Notwithstanding paragraph (1), after adoption of regulations to administer this section, which includes the list required in subdivision (b), the department may revise the list in a manner that is exempt from the administrative regulation and rulemaking requirement of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, except that the revised list shall be filed with the Secretary of State and printed in the California Code of Regulations.

(g) For the purposes of this section, the term "governing authority" means the governing board of each school district or the authority of each private or public institution responsible for the operation and control of the institution or the principal or administrator of each school or institution listed in subdivision (a).

SEC. 6. Section 120365 of the Health and Safety Code is amended to read:

120365. Immunization of a person shall not be required for admission to a school or other institution listed in Section 120335 if the parent or guardian or adult who has assumed responsibility for his or her care and custody in the case of a minor, or the person seeking admission if an emancipated minor, files with the governing authority a letter or affidavit stating that the immunization is contrary to his or her beliefs. However, whenever there is good cause to believe that the person has been exposed to one of the communicable diseases ~~listed in subdivision (a) of Section 120325~~ for which immunization is required pursuant to Section 120335, that person may be temporarily excluded from the school or institution until the local health officer is satisfied that the person is no longer at risk of developing the disease.

1 *SEC. 7. Sections 5 and 6 of this act shall become operative on*
2 *July 1, 2009.*

3 ~~SEC. 5.~~

4 *SEC. 8.* If the Commission on State Mandates determines that
5 this act contains costs mandated by the state, reimbursement to
6 local agencies and school districts for those costs shall be made
7 pursuant to Part 7 (commencing with Section 17500) of Division
8 4 of Title 2 of the Government Code.